

**STATE OF WISCONSIN
WAUKESHA COUNTY
VILLAGE OF WALES**

ORDINANCE NO: _____

**An Ordinance to Renumber Current Section 314-17 and Create New Section 314-17 of the
Municipal Code With Regard to Sex Offender Residing Within 1,500 Feet of Schools,
Day Care Centers, Parks and Other Specified Facilities and Uses Prohibited, Child Safety Zones**

The Village Board of the Village of Wales, Waukesha County, Wisconsin does ordain as follows:

Section One: Section 314-17 of the Municipal Code is hereby redesignated as Section 314-20.

Section Two: Section 314-17 of the Municipal Code is hereby recreated to read as follows:

Section 314-17 Sex Offender Residency Restrictions.

1) *Definitions.* As used in this section and unless the context otherwise requires:

- a) A *Sexually Violent Offense* shall have the meaning as set forth in Wis. Stats. § 980.01(6).
- b) A *Crime Against Children* shall mean any of the following offenses set forth within the Wisconsin Statutes, or the laws of this or any other state or the federal government, having like elements necessary for conviction, respectively:

- § 940.225(1) First Degree Sexual Assault;
- § 940.225(2) Second Degree Sexual Assault;
- § 940.225(3) Third Degree Sexual Assault;
- § 940.22(2) Sexual Exploitation by Therapist;
- § 940.30 False Imprisonment-victim was minor and not the offender's child;
- § 940.31 Kidnapping-victim was minor and not the offender's child;
- § 944.01 Rape (prior statute);
- § 944.06 Incest;
- § 944.10 Sexual Intercourse with a Child (prior statute);
- § 944.11 Indecent Behavior with a Child (prior statute);
- § 944.12 Enticing Child for Immoral Purposes (prior statute);
- § 948.02(1) First Degree Sexual Assault of a Child;
- § 948.02(2) Second Degree Sexual Assault of a Child;
- § 948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child;
- § 948.05 Sexual Exploitation of a Child;
- § 948.055 Causing a Child to View or Listen to Sexual Activity;
- § 948.06 Incest with a Child;
- § 948.07 Child Enticement;
- § 948.075 Use of a Computer to Facilitate a Child Sex Crime;
- § 948.08 Soliciting a Child for Prostitution;
- § 948.095 Sexual Assault of a Student by School Instructional Staff;
- § 948.11(2)(x) or (am) Exposing Child to Harmful Material-felony sections;
- § 948.12 Possession of Child Pornography;

§ 948.13 Convicted Child Sex Offender Working with Children;
§ 948.30 Abduction of Another's Child;
§ 971.17 Not Guilty by Reason of Mental Disease-of an included offense; and
§ 975.06 Sex Crimes Law Commitment.

- c) *Person* means a person who has been convicted of or has been found delinquent of or has been found not guilty by reason of disease or mental defect of a Sexually Violent Offense and/or a Crime Against Children.
- d) *Residence*("reside") means the place where a Person sleeps, which may include more than one location, and may be mobile or transitory.

2) *Residency restrictions.* A Person shall not reside within the Village within 1,500 feet of the real property comprising any of the following (whether located within the Village or not):

- a) Any facility for children (which means a public or private school, a group home, as defined in Wis. Stats. § 48.02(7), a residential care center for children and youth, as defined in Wis. Stats. § 48.02(15d), a shelter care facility, as defined in Wis. Stats. § 48.02(17), a foster home, as defined in Wis. Stats. § 48.02(6), a treatment foster home, as defined in Wis. Stats. § 48.02(17q), a day care center licensed under Wis. Stats. § 48.65, a day care program established under Wis. Stats. § 120.13(14), a day care provider certified under Wis. Stats. § 48.651, or a youth center, as defined in Wis. Stats. § 961.01(22); and/or
- b) Any facility used for:
 - 1) A public park, parkway, parkland, park facility, nature preserve;
 - 2) A public swimming pool or beach;
 - 3) A public library;
 - 4) A recreational trail;
 - 5) A public playground;
 - 6) A school for children;
 - 7) Athletic fields used by children;
 - 8) A movie theatre;
 - 9) A daycare center;
 - 10) Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy or music school;
 - 11) Temples, churches, mosques, synagogues or other houses of worship; and
 - 12) Community based residential facility, home for more than eight disabled individuals or home for the elderly.

The distance shall be measured from the closest boundary line of the real property supporting the residence of a Person to the closest real property boundary line of the applicable above enumerated use(s). A map depicting the above enumerated uses and the resulting residency restriction distances, as amended from time to time, shall be kept on file in the office of the Village Clerk for public inspection.

3) *Residency restriction exceptions.* A Person residing within 1,500 feet of the real property comprising any of the uses enumerated in subsection (2) above, does not commit a violation of this section if any of the following apply:

- a) The Person is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution or facility.

- b) The Person has established a residence prior to the effective date of this section (January 7, 2016), which is within 1,500 feet of any of the uses enumerated in subsection (2) above, or such enumerated use is newly established after such effective date and it is located within such 1,500 feet of a residence of a Person which was established prior to the effective date of this section.
 - c) The Person is a minor residing with a parent or legal guardian who serves as parent or legal guardian to no more than one Person.
- 4) *Original domicile restriction.* In addition to and notwithstanding the foregoing, but subject to subsection (3) above, no Person and no individual who has been convicted of a Sexually Violent Offense and/or a Crime Against Children, shall be permitted to reside in the Village, unless such Person was domiciled in the Village at the time of the offense resulting in the Person's most recent conviction for committing the Sexually Violent Offense and/or Crime Against Children.
- 5) *Child safety zones.* No Person shall enter or be present upon any real property in the Village upon which there exists any facility used for or which supports a use of:
- a) A public park, parkway, parkland, park facility or nature preserve;
 - b) A public swimming pool or beach;
 - c) A public library;
 - d) A recreational trail;
 - e) A public playground;
 - f) A school for children;
 - g) Athletic fields used by children;
 - h) A movie theatre;
 - i) A daycare center;
 - j) Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy or music school;
 - k) Aquatic facilities open to the public; and
 - l) Any facility for children (which means a public or private school, a group home, as defined in Wis. Stats. §48.02(7), a residential care center for children and youth, as defined in Wis. Stats. §48.02(15d), a shelter care facility, as defined in Wis. Stats. § 48.02(17), a foster home, as defined in Wis. Stats. §48.02(6), a treatment foster home, as defined in Wis. Stats. §48.02(17q), a day care center licensed under Wis. Stats. §48.65, a day care program established under Wis. Stats. §120.13(14), a day care provider certified under Wis. Stats. §48.651, or a youth center, as defined in Wis. Stats. §961.01(22).

A map depicting the locations of the real property supporting the above enumerated uses, as amended from time to time, shall be kept on file in the office of the Village Clerk for public inspection.

- 6) *Child safety zone exceptions.* A Person does not commit a violation of subsection (5) and the enumerated uses may allow such Person on the property supporting such use if any of the following apply:
- a) The property supporting an enumerated use under subsection (5) also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "church"), subject to the following conditions:
 - 1) Entrance and presence upon the property occurs only during hours of worship or other religious program service as posted to the public;

- 2) Written advance notice is made from the Person to an individual in charge of the church and approval from an individual in charge of the church as designated by the church is made in return, of the attendance by the Person; and
 - 3) The Person shall not participate in any religious education programs which include individuals under the age of 18.
- b) The property supporting an enumerated use under subsection (5) also supports a use lawfully attended by a Person's natural or adopted child/children, which child's use reasonably requires the attendance of the Person as the child's parent upon the property, subject to the following conditions:
- 1) Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and
 - 2) Written advance notice is made from the Person to an individual in charge of the use upon the property and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the Person.
- c) The property supporting an enumerated use under subsection (5) also supports a polling location in a local, state or federal election, subject to the following conditions:
- 1) The Person is eligible to vote;
 - 2) The designated polling place for the Person is an enumerated use; and
 - 3) The Person enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate; and the Person vacates the property immediately after voting.
- d) The property supporting an enumerated use under subsection (5) also supports an elementary or secondary school lawfully attended by a Person as a student, under which circumstances the Person who is a student may enter upon that property supporting the school at which the Person is enrolled, as is reasonably required for the educational purposes of the school.
- 7) *Violations.* If a Person violates subsection (2) above, by establishing a residence or occupying residential premises within 1,500 feet of those premises as described therein, without any exception(s) as also set forth above, the Village Attorney may bring an action in the name of the Village in the Circuit Court for Waukesha County to temporarily and permanently enjoin such residency as a public nuisance. If a Person violates subsection (5), in addition to the aforesaid injunctive relief, such Person shall be subject to the general penalty provisions set forth under Chapter 1-4 of this Code. Each day a violation continues shall constitute a separate offense. In addition, the Village may undertake all other legal and equitable remedies to prevent or remove a violation of this section.

Section Three: In the event that any provision of this Ordinance is for any reason held to be invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portions of this Ordinance shall be deemed separate, distinct, and independent provisions of the Ordinance and all remaining portions of this Ordinance shall remain in full force and effect.

Section Four: All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby and to such extent repealed.

Section Five: This ordinance shall take effect and be in force from and after its passage and posting.

PASSED AND ADOPTED by the Village Board of Trustees of the Village of Wales, Waukesha County, Wisconsin, this _____ day of _____, 2016.

VILLAGE OF WALES

Jeffery A. Flaws, Village President

ATTEST:

BY: _____
Gail Tamez, Village Clerk

Posted this _____ day of _____, 2016.